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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 GREGORY F. SHINHOLSTER,
8 Plaintiff,

9 v.

10 DEPARTMENT OF CORRECTIONS
11 and OFFICER STANLEY
REYNALDS,
12 Defendants.

NO: 2:17-CV-141-RMP

ORDER DISMISSING COMPLAINT

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14 By Order filed July 13, 2017, the Court advised Plaintiff of the deficiencies
15 of his complaint and directed him to amend or voluntarily dismiss. ECF No. 9.
16 Plaintiff, Gregory F. Shinholster, is a former prisoner residing in Spokane,
17 Washington. The Court granted Mr. Shinholster leave to proceed *in forma*
18 *pauperis* but without the obligation to pay the filing fee in partial payments under
19 28 U.S.C. § 1915(b)(2). ECF No. 7. Defendants were not served.
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1 The Court cautioned Mr. Shinholster that if he did not amend as directed his
2 complaint would be dismissed for failure to obey a court Order. Mr. Shinholster
3 has filed nothing further in this action.

4 **DISMISSAL FOR FAILURE TO OBEY A COURT ORDER**

5 “Pursuant to Federal Rule of Civil Procedure 41 (b), the district court may
6 dismiss an action for failure to comply with any order of the court.” *Ferdik v.*
7 *Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). The district court should consider
8 five factors when deciding whether to dismiss a case for failure to obey a court
9 order:

10 (1) The public’s interest in expeditious resolution of litigation; (2) the
11 court’s need to manage its docket; (3) the risk of prejudice to the
12 defendants; (4) the public policy favoring disposition of cases on their
13 merits; and (5) the availability of less drastic alternatives.

14 *Id.* at 1260-61 (citations omitted).

15 The first two factors weigh in favor of dismissal. The Court’s and the
16 public’s interests are both served by a quick resolution of civil rights litigation.
17 The third factor also favors dismissal. Defendants will not be prejudiced if the
18 claims are dismissed because Defendants have not been served. Only the fourth
19 factor arguably weighs against dismissal. However, despite the Court's
20 instructions, Mr. Shinholster has not presented legally sufficient complaint. As for
21 the fifth factor, the only less drastic alternative would be to allow Mr. Shinholster
yet more time to amend his complaint. Mr. Shinholster, however, has already had
more than three months in which to file an amended complaint, and he failed to do

1 so. Allowing a further extension would frustrate the purpose of the first two
2 factors; therefore, the fifth factor favors dismissal. On balance, the four factors
3 that favor dismissal outweigh the one that does not. *Id.* at 1263 (citing *Malone v.*
4 *United States Postal Serv.*, 833 F.2d 128, 133 n.2 (9th Cir. 1987) (four factors
5 heavily supporting dismissal outweigh one against dismissal)).

6 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Complaint, ECF
7 No. 8, be **DISMISSED WITHOUT PREJUDICE**. The Court certifies any
8 appeal of this dismissal would not be taken in good faith.

9 The Clerk of Court is directed to enter this Order, enter judgment, forward
10 copies to Plaintiff, and **close this case**.

11 **DATED** October 20, 2017.

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13 *s/ Rosanna Malouf Peterson*
14 ROSANNA MALOUF PETERSON
15 United States District Judge
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